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NOTE

Origine:	Secrétariat général du Conseil
Destinataire:	Conseil
Objet:	Préoccupations concernant le projet d'acte législatif sur l'utilisation durable des produits phytopharmaceutiques

Les délégations trouveront en annexe une note sur le sujet susmentionné qui sera traitée sous "Divers" lors de la session du Conseil ("Agriculture et pêche") du 21 mars 2022.

Concerns about draft legislative act on sustainable use of plant protection products**- Joint non-paper by BG, EE, HR, HU, LV, LT, MT, AT, PL, RO, SK, SI**

On 23rd of March the European Commission will present its legislative proposal as regards the sustainable use of plant protection products and repealing Directive 2009/128/EC (SUD) which will be an outcome of the review of SUD. This action is a part of the Farm to Fork Strategy. As foreseen in the Strategy, the European Commission will take further action to reduce the overall use and risk of chemical pesticides¹ by 50% and the use of more hazardous pesticides by 50% by 2030.

Consequently the Council adopted its Council Conclusions on the Farm to Fork Strategy² in which Member States took note of the reduction targets for pesticides set out in this Strategy. The Council pointed out that achieving those targets will require efforts from MS and all stakeholders. In this regard the Commission was requested to act based on scientifically-sound ex-ante impact assessments. Furthermore the Commission was requested to ensure cost-effective implementation and monitoring of the targets, while ensuring a level playing field on competitive agri-food markets. According to the Strategy, different starting points and differences in improvement potential between Member States, should be duly recognised by the Commission.

The Strategy sets out an overall EU objective for reducing use and risks of chemical pesticides. However it does not provide a legal basis to set binding targets at Member State level.

In the Conclusions Member States stressed that, when delivering the actions from the Strategy, adequate attention needs to be given to the economic, social and environmental dimensions of food systems. Member States underlined that the competitiveness of EU agricultural and related sectors have to be secured. This has become particularly important in view of the changed situation on the world market and the need to ensure food security.

¹ Term pesticide is wider and covers biocides and plant protection products, but in context of revision of SUD and this paper the reference is to plant protection products only

² Council Conclusions on the Farm to Fork Strategy
<https://www.consilium.europa.eu/media/46419/st12099-en20.pdf>

Despite the fact that the legislative proposal has not been officially published, Member States have been acquainted with unofficially widely leaked documents, in particular with Proposal for Regulation on the sustainable use of plant protection products and repealing Directive 2009/18/EC, its annexes and the impact assessment report. It has caused some serious concerns among some MS which agreed on communicating them to the Commission.

The main concerns relate to the proposed way of transposing the reduction targets for plant protection products into the EU legislation. Out of the three possible scenarios described in the documents, it was decided to choose the most restrictive one, i.e. 50% reduction targets for the use of plant protection product and of the related risks which would be binding both for the European Union and the Member States level (with a possible 25% reduction under certain conditions).

The very ambitious and political targets are therefore becoming binding, and are set without proper support in scientific assessments of the practical possibilities of achieving them.

It should be stressed that the reduction targets that Member States will have to achieve do not take into account the differences between them in terms of the amount of active substance used per hectare of farmland and the already achieved results on Member States level. A drastic reduction in the use of plant protection products in Member States with a low consumption of these products per hectare may make it impossible to ensure proper plant protection and thus to maintain production and as consequence distort competition on the common market.

The reduction targets adopted should not lead to a reduction in agricultural production, so as not to threaten the European Union's food security and increase dependence on food imports. Member States should be allowed to set these targets in accordance with the principle of subsidiarity and in a way which takes greater account of the specific nature of individual Member State and the its need to protect plants from harmful organisms.

In order to achieve the reduction targets it is important to make less-hazardous plant protection products, biological products or low risk active substances, widely available beforehand. EU farmers need new and readily available tools which are tailored to specific climate conditions in Member States.

In order to ensure the European Union's food security, it must be possible to use plant protection products to control pests and their use must also ensure that harmful organisms do not develop resistance. At present, farmers do not have an access to a wide range of suitable alternatives to produce high quality yield which may lead to a decline in the quality of food in the European Union.

The legislative draft also provides for a number of new administrative burdens for both producers and Member States' authorities, which also raise doubts as to its compliance with the principle of subsidiarity and should be carefully assessed from this point of view.

It has to be highlighted that some serious doubts have been caused by the proposed provisions on definitions, in particular the proposal of defining 'sensitive areas' is unclear and does not reflect Member States' conditions.

In view of the above, the impact assessment report which accompanies the draft lacks deep analyses of economic and social impact. It has been assessed that professional pesticides users will face additional costs, that banning the use of chemical plant protection products in sensitive areas may result in lower crop yields and, above all, that higher production costs may trigger a rise in food prices for EU consumers and the Union's reliance on imports may rise. The proposal provides no compensating tools. So called 'future adjustments, supports and mitigating actions' have not been described. It seems highly inadequate to reduce the issue of mitigating or offsetting the negative effects to measures available under the Common Agricultural Policy in general.

These concerns are aimed at improving the legislative proposal and ultimately achieving a piece of legislation that contributes effectively to reducing the risks associated with using plant protection products, while respecting the principle of subsidiarity and taking into account the differences between Member States and their unique characteristics